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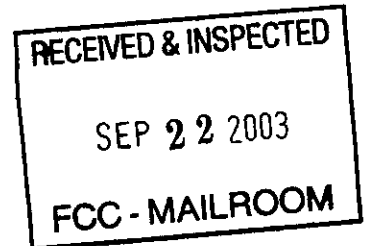


September 18, 2003

ORIGINAL

Ex Parte

Filed Electronically



Marlene H. Dortch, Secretary
Federal Communications Commission
445 - 12th Street, S.W.
Washington, D.C. 20554

Re: Qwest Communications International Inc. Consolidated Application for
Authority to Provide In-Region, InterLATA Services in the State of Arizona
WC Docket No. 03-194

Dear Ms. Dortch:

Enclosed are two copies of emails, including attachments, provided to the Department of Justice by Eschelon, in response to questions from the Department.

The twenty-page limit does not apply to this filing.

Sincerely,

A handwritten signature in black ink that reads "Kim K. Wagner". The signature is fluid and cursive.

Kim K. Wagner
Senior Legal Secretary
Eschelon Telecom, Inc
612.436 6225
kkwagner@eschelon.com

Enclosures

cc: Gary Remondino
Wireline Competition Bureau

Handwritten initials "AH" and the date "SEP 22 2003" in a cursive script.

RECEIVED & INSPECTED

SEP 22 2003

FCC - MAILROOM

-----Original Message-----

From: Clauson, Karen L.
Sent: Monday, August 11, 2003 5:54 PM
To: 'Jodi Smith'
Cc: Oxley, J. Jeffery
Subject: FW: AZ 271 comments/DS1 capable loop issue/CABs

Jodi:

I got your voice mail. Jeff Oxley and I would be happy to talk with you. Is there a time that would be most convenient for you? (Would 11:30 CST/12:30 eastern work?) As background, copied below are the comments Eschelon filed recently in AZ on the Staff's non-OSS report. (With respect to the OSS issues, Qwest has finally finalized OP-5, but PO-20 has a long ways to go.)

As you may know, other CLECs have also filed comments about the DS1 capable loop problem that is discussed in our AZ 271 comments. In June, 2003 (and since then), Eschelon and other CLECs noticed a jump in the number of jeopardy notices for DS1 capable loops on the grounds of "service inquiry" for lack of qualified facilities (*i.e.*, held orders) in Arizona and other states. Eschelon and other CLECs asked Qwest about the cause of this increase. Qwest has provided conflicting information, but has said generally that the increase in jeopardy notices relates to a recent unilateral decision by Qwest to interpret "special construction" in a new manner (different from how Qwest described it to the FCC previously). In paragraph 164 of the FCC's 9-state Qwest 271 Order (12/20/02), the FCC said: "The record shows that Qwest attempts to locate compatible facilities for competing LECs" and "performs incremental facility work to make UNEs available." In contrast, Qwest is now claiming that such activities (including loop conditioning) are "special construction," so that orders are halted until a lengthy, complicated request process, with high charges, is completed.

In a recent CMP notice, Qwest states that, in response to CLEC objections, it may temporarily "suspend" some changes pending further discussion (though it can still implement them unilaterally later) (If Qwest just pushes the change out until after it gets 271 approval, CLECs will still be faced with this problem, but Qwest will be in the interLATA market in AZ.) In the CMP notice Qwest states that -- even if it suspends some changes -- it will still require use of the special construction process in the meantime in some instance. For example, Qwest will require use of the special construction process for removal of 4 or more load coils in the meantime. (It appears that Qwest may be suggesting that 3 or fewer load coils is under 18,000 feet, and 4 or more is over 18,000 feet.) In the Arizona June 12, 2002 cost case order, the Commission states: "Staff witness Dunkel agreed with Sprint that Qwest's proposed conditioning charges are excessive. Mr. Dunkel stated that it is not efficient for Qwest to send a person out to unload a single loop at a time. Mr. Dunkel proposed a rate of \$40 per loop to remove load coils or bridge taps under 18,000 feet; \$70 per location for aerial and buried loops over 18,000 feet; and \$400 per location for underground loops. For loops over 18,000 feet, Mr. Dunkel would also impose a \$2 charge for each additional coil or tap at the same time, location, and cable (Staff Ex. 30, at 51-52: Sched. WD-8). . . . We believe Staff's proposal fairly recognizes the costs incurred by Qwest and we, therefore, adopt Staff's

position on this issue."

This shows the AZ commission established rates for conditioning for both loops under 18,000 feet and loops over 18,000 feet. Therefore, Qwest's attempt to say that removing load coils for 3 or fewer load coils (in the long term) and 4 or more load coils (even in the short term) is "special construction" is contrary to the AZ cost case order. The cost case order set an NRC charge; it did not say special construction charges/ICB rates apply.

If you haven't already done so, you may want to talk with MTI about the DS1 issue. MTI also filed comments on the DS1 issue in AZ (and discussed how what Qwest is saying now is different from what it said to the FCC). I'll forward that information separately.

Also copied below is a complaint that Eschelon has filed in federal court relating to missing records/access charges in AZ and other states. This remains a problem.

Karen L. Clauson
Senior Director of Interconnection
Eschelon Telecom, Inc.
730 2nd Ave. South, Suite 1200
Minneapolis, MN 55402
Phone: 612-436-6026
Fax: 612-436-6126

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ESCHELON TELECOM OF WASHINGTON, INC.; ESCHELON TELECOM OF ARIZONA, INC.; ESCHELON TELECOM OF COLORADO, INC.; ESCHELON TELECOM OF MINNESOTA, INC.; ESCHELON TELECOM OF OREGON, INC.; and ESCHELON TELECOM OF UTAH, INC ,)	No. C03-1296R
)	
)	COMPLAINT
)	
)	
Plaintiffs,)	
)	
vs.)	
)	
QWEST CORPORATION,)	
)	
Defendant.)	

JURISDICTION AND VENUE

1. This Court has jurisdiction under 28 U.S.C. § 1332. The matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs and is between citizens of different states. Eschelon Telecom of Washington, Inc., is incorporated in Minnesota and has its principal place of business in Minnesota. Eschelon Telecom of Arizona, Inc., is incorporated in Minnesota and has its principal place of business in Minnesota. Eschelon Telecom of Colorado, Inc., is incorporated in Minnesota and has its principal place of business in Minnesota. Eschelon Telecom of Minnesota, Inc., is incorporated in Minnesota and has its principal place of business in Minnesota. Eschelon Telecom of Oregon, Inc., is incorporated in Minnesota and has its principal place of business in Minnesota. Eschelon Telecom of Utah, Inc., is incorporated in Minnesota and has its principal place of business in Minnesota. Qwest Corporation ("Qwest") is incorporated in Delaware and has its principal place of business in Colorado.

2. This Court also has jurisdiction under 28 U.S.C. § 1331. The claims stated herein arise under the laws of the United States, specifically, the Telecommunications Act of 1996, codified in various sections commencing at 47 U.S.C. § 151, *et seq*.

3. The Western District of Washington at Seattle is the proper venue under 28 U.S.C. § 1391. A substantial part of the events or omissions giving rise to the claim occurred in King County, and Qwest is subject to personal jurisdiction in King County.

PARTIES

4. Plaintiffs (collectively, "Eschelon") are competitive local exchange carriers ("CLECs") that

provide local exchange telephone service. Eschelon serves markets in Qwest's territory in Seattle-Tacoma, Washington; Phoenix, Arizona; Denver-Boulder, Colorado; Minneapolis-St. Paul, Minnesota; Portland-Salem-Eugene, Oregon; and Salt Lake City, Utah. Eschelon is the successor to American Telephone Technology, Inc., Electro-Tel, Inc., Cady Telemanagement, Inc., and Advanced Telecommunications, Inc. Eschelon provides local exchange telephone service to customers in two primary ways: through Eschelon's telephone network, and through a telephone network owned by an incumbent local exchange carrier (e.g., Qwest), to which Eschelon has or its predecessors had access pursuant to interconnection agreements as required by 47 U.S.C. §§ 251-252. Eschelon has satisfied all prerequisites necessary to bring this action

5. Qwest is an incumbent local exchange carrier ("ILEC") that, in pertinent part, provides services, equipment, facilities, and network elements to Eschelon and other CLECs pursuant to interconnection agreements, as required by 47 U.S.C. §§ 251-252. Qwest merged with, and is the successor to, U.S. West, Inc., the parent company of U.S. West Communications, Inc. ("U.S. West"). Qwest is liable for the contracts that U.S. West entered into with Eschelon or Eschelon's predecessors, as described below

FACTS

The Parties' Interconnection Agreements

6. In 1999 and 2000, Qwest's and Eschelon's predecessors arbitrated, negotiated or opted into interconnection agreements for every state in which they both do business, namely, Washington, Arizona, Colorado, Minnesota, Oregon, and Utah. These agreements established rates, terms, and conditions for the interconnection of Eschelon's and Qwest's telecommunications networks, as well as for the provision of certain services by Qwest to Eschelon.

7. For Washington, the interconnection agreement is the "Agreement for Local Wireline Network Interconnection and Service Resale" between U.S. West and American Telephone Technology, Inc. For Arizona, the agreement is the "Agreement for Local Wireline Network Interconnection and Service Resale" between U.S. West and American Telephone Technology, Inc. For Colorado, the agreement is the "Interconnection Agreement" between U.S. West and Electro-Tel, Inc. For Minnesota, the agreement is the "Agreement for Local Wireline Network Interconnection and Service Resale" between U.S. West and Cady Telemanagement, Inc. For Oregon, the agreement is the "Agreement for Local Wireline Network Interconnection and Service Resale" between U.S. West and American Telephone Technology, Inc. For Utah, the agreement is "Agreement for Local Wireline Network Interconnection and Service Resale" between U.S. West and Advanced Telecommunications, Inc. The foregoing contracts are collectively referred to herein as the "Interconnection Agreements."

8. On November 15, 2000, Qwest and Eschelon executed an "Interconnection Agreement Amendment Terms" ("Interconnection Agreement Amendment") that amended the terms of the Interconnection Agreements.

Carrier Access Billing System

9. Qwest and Eschelon own and operate digital loop carrier facilities and voice switching facilities in the geographic areas in which they do business. As the incumbent local exchange carrier, Qwest is required by federal law to permit Eschelon and other local exchange carriers to interconnect with Qwest's network. Pursuant to the Interconnection Agreements, as amended, Eschelon leases Qwest's distribution and transport network to link Eschelon's customers to Eschelon's switches in order to provide them with telecommunications services. In addition, Eschelon leases combinations of Qwest's distribution plant and Qwest's switching facilities to serve the portion of Eschelon's customers that are not served by Eschelon's switches.

10. Under federal law, local exchange carriers, such as Eschelon, are to be compensated for the cost of transporting and terminating telephone calls that are originated or terminated from or to their customers by customers of other telecommunications carriers. If a caller in New York calls an Eschelon customer in Washington, for example, Eschelon is entitled to collect an access charge from the caller's long distance carrier. Similarly, if an Eschelon customer in Washington calls someone in New York, Eschelon is also entitled to collect an access charge from its customer's long distance carrier.

11. Qwest is one of several long distance carriers from which Eschelon is entitled to collect access charges. Long distance carriers route calls to, and receive calls from, either designated Qwest end office switches (dedicated end office transport), or from access tandems in every geographic area in which Eschelon conducts business. In order to collect access charges, Eschelon must be able to provide long distance carriers with call records of long distance calls, formatted according to industry standards. These

records are produced by Eschelon's switches in some instances, and by Qwest's access tandem or local switches or end office switches in others

12. In the industry, the process by which long distance calls generate records – which are used to collect access charges from long distance carriers – is known as the Carrier Access Billing System ("CABS"). Eschelon's switches generate CABS records for long distance calls *originated* by Eschelon's customers who are served by Eschelon's switches (on-net customers). However, Eschelon must rely on Qwest to provide CABS records of long distance calls *received* by customers who are served by Eschelon's switches (on-net customers), as well as for all long distance calls *made or received* by Eschelon's customers who are served by Qwest's switches using unbundled network element combinations (off-net customers)

13 The underlying Interconnection Agreements for each state (*e.g.*, Section 7 of Attachment 7 of the Interconnection Agreement for Minnesota) and Section 3.3 of the Interconnection Agreement Amendment, require Qwest to provide complete and accurate CABS records for Eschelon's on-net and off-net customers on a daily basis so that Eschelon can bill interexchange or other companies for access charges. Therefore, Qwest is obligated to provide Eschelon with complete and accurate CABS records so that Eschelon can collect the access charges it is entitled to from long distance carriers, including Qwest, for long distance calls pursuant to the Interconnection Agreements and federal law

14. Qwest has provided Eschelon with some CABS records, but Eschelon has discovered that Qwest has not provided all of the CABS records for Eschelon's on-net and off-net customers. In 2001 and 2002, Eschelon engaged third-party telecommunications consultants to audit the completeness and accuracy of the CABS records provided to Eschelon by Qwest. The audits included test calls to Eschelon customers and test calls from Eschelon customers. In addition, Qwest conducted an audit of its CABS records in cooperation with Eschelon. Based upon the most recent audit, Eschelon found that Qwest's CABS records failed to capture approximately 16% of the total call records for which Eschelon would have been entitled to collect access charges. In addition, Eschelon found that Qwest has not provided complete and accurate CABS records for Qwest-carried long distance toll calls that terminated on Eschelon's on-net lines, an omission that financially benefits Qwest to Eschelon's detriment

15. Qwest is liable for incidental and consequential damages under the Interconnection Agreements for breaches that are repeated or are found to be a pattern of conduct. Qwest has continually failed to provide Eschelon with complete and accurate CABS records, even after Eschelon raised the issue with Qwest. Qwest's failure to provide Eschelon with complete and accurate CABS records deprives Eschelon of substantial compensation to which Eschelon is entitled. As a result, Eschelon has been unable to bill for and collect approximately \$77,500 per month in access charges, for a total of approximately \$1.2 million from March 2002 through May 2003. The Interconnection Agreements (*e.g.*, Section 4 of Part A of the Interconnection Agreement for Minnesota, and Sections 17-18 of Attachment 7) also require Qwest to pay for Eschelon's audit costs. Eschelon has incurred approximately \$288,000 in auditing costs for the most recent CABS auditing projects. Qwest has refused to pay such costs.

Automated Conversion of Eschelon's Resale Customer Base to UNE-E

16. Eschelon has been a wholesale customer of Qwest and its predecessors since 1996. Initially, Eschelon purchased some of Qwest's services under the "Resale" provisions of the Interconnection Agreements. The Interconnection Agreements and federal law also allow Eschelon to provide telecommunications service to its customers through Qwest's unbundled network elements ("UNEs"). UNEs are parts of an ILEC's (*e.g.*, Qwest's) network, such as the loop, switching, and transport functions. Pursuant to 47 U.S.C. § 251(c)(3), ILECs are required to offer UNEs for lease to CLECs. UNEs enable a CLEC to provide telecommunications service to customers who are not served directly by the CLEC's switch and telephone lines

17. In 2000, Eschelon had a contractual right to convert its base of 49,000 resale lines to a Qwest product known as unbundled network element platform ("UNE-P"), as well as to order UNE-P for new lines. However, Qwest was not prepared to provide Eschelon with the prices, services and quality that Eschelon was entitled to under the UNE-P platform. Instead, Qwest offered to provide the prices, services and quality that Eschelon wanted through a new product (later called UNE-Eschelon or "UNE-E")

18. During the negotiations regarding UNE-E, Eschelon questioned how Qwest intended to convert Eschelon's 49,000 resale lines to UNE-E without disruption in service or functionality. Qwest responded that it could perform an automated (as opposed to manual) conversion process, but Eschelon would have to pay for Qwest to do so. Eschelon agreed. Pursuant to Paragraph 2.1 of the Interconnection

Agreement Amendment, Qwest promised to convert Eschelon's base of resale customers to the UNE-E platform and release Eschelon from any termination liability in exchange for Eschelon's payment to Qwest of \$10 million. Of the \$10 million, Eschelon paid \$4 million for Qwest to automatically convert Eschelon's resale customers to the UNE-E platform and avoid the service disruptions and errors that a manual conversion would cause.

19. In addition to Qwest's promise to prevent service disruptions during the conversion itself, Qwest promised that the conversion would result in accurate bills, so that the bills would no longer reflect the wholesale discount associated with resale service, and would instead show the UNE-E rates in the Interconnection Agreement Amendment. Thus, Qwest was obligated to provide Eschelon with an automated conversion to a working UNE-E product.

20. Despite Qwest's promises to the contrary, Qwest never converted (automatically or otherwise) Eschelon's resale base to an accurately billed UNE-E product. To date, Eschelon has not obtained any benefit from the \$4 million it paid Qwest.

Commercially Viable DSL Service

21. CLECs typically provide their customers with high-speed Internet access through digital subscriber lines ("DSL"). Under Section 2.2 of the Interconnection Agreement Amendment, Qwest agreed to make DSL service available to Eschelon's customers through the UNE-E platform, beginning November 15, 2000. After the amendment was signed, Eschelon discovered that Qwest did not have a process in place to provide commercially viable DSL service. As a result, Eschelon was not able to offer or provide its customers with Qwest DSL service until August 2001, despite Qwest's commitment to provide Eschelon with DSL service as of November 15, 2000.

22. Given that numerous Eschelon customers had ordered DSL service from Eschelon, and Qwest was unable to fulfill the orders, Eschelon was required to purchase DSL service from another supplier at substantially higher prices. As a result of Qwest's breach, Eschelon's costs to provide its customers with DSL service was approximately \$1.7 million higher than the costs Eschelon would have incurred otherwise.

FIRST CAUSE OF ACTION – BREACH OF CONTRACT (CABS)

23. Eschelon re-alleges the allegations contained above.

24. Qwest contracted with Eschelon and promised, for valuable consideration, to provide complete and accurate CABS records for long distance calls to and from Eschelon's customers for Eschelon's use in billing long distance carriers for access charges. Eschelon performed its obligations in all material respects. Qwest has engaged in a pattern of conduct that has repeatedly breached the contract by failing to provide Eschelon with the data necessary to bill for such calls. As a proximate result, Eschelon has suffered damages (including incidental damages, consequential damages, and audit costs) in an amount to be proven at trial (but no less than \$1.2 million, from March 2002 through May 2003, plus the \$288,000 in unpaid auditing costs that Eschelon incurred to confirm Qwest's breaches).

SECOND CAUSE OF ACTION – BREACH OF CONTRACT (UNE-E)

25. Eschelon re-alleges the allegations contained above.

26. Qwest contracted with Eschelon, and Eschelon paid Qwest consideration of \$4 million, to automatically convert Eschelon's base of 49,000 resale lines to the UNE-E platform without disruption in service or functionality. Eschelon performed its obligations under the contract in all material respects. Qwest has engaged in a pattern of conduct that repeatedly has breached the contract by failing to provide the automated process, failing to convert Eschelon's resale customer base to the UNE-E platform, and failing to accurately bill Eschelon for UNE-E services. As a proximate result, Eschelon has not obtained the benefit of its bargain and has suffered damages (including incidental and consequential damages) in an amount to be proven at trial (but no less than the \$4 million consideration Eschelon paid Qwest to perform the automatic conversion).

THIRD CAUSE OF ACTION – BREACH OF CONTRACT (DSL)

27. Eschelon re-alleges the allegations contained above.

31 Qwest contracted with Eschelon, for valuable consideration, to make DSL service available for Eschelon to sell to its customers. Eschelon performed its obligations in all material respects. Qwest engaged in a pattern of conduct that repeatedly breached the contract by failing to provide the promised service. As a proximate result, Eschelon has suffered damages (including incidental and consequential damages) in an amount to be proven at trial but no less than the \$1.7 million in additional costs that Eschelon has incurred to obtain DSL service from a third party.)

PRAYER FOR RELIEF

WHEREFORE, Eschelon prays for the following relief:

1. For actual, incidental, special, and consequential damages (in an amount to be proven at trial, but for purposes of this pleading, no less than \$7,188,000),

2. For prejudgment interest,

3. For all other such relief as the Court deems proper.

DATED this 16th day of June, 2003

GRAHAM & DUNN PC

By _____

Edward W. Pettigrew

WSBA# 2272

Email: epettigrew@grahamdunn.com

Michael G. Atkins

WSBA# 26026

Email: matkins@grahamdunn.com

Attorneys for Plaintiffs

271 Comments and Reply Comments:

-----Original Message-----

From: Wagner, Kim K.
Sent: Friday, July 25, 2003 4:57 PM
To: acrain@qwest.com; adubuqu@qwest.com; aisar@millerisar.com;
andrea.harris@allegiancetelecom.com; baschneider@z-tel.com;
bradley.carroll@cox.com; BRECHER@gtlaw.com;
brian.thomas@twtelecom.com; cbutler@cc.state.az.us; chuttsel@czn.com;
csteese@steeselaw.com; danielwaggoner@dwt.com;
dconn@mcleodusa.com; dkbac@AOL.com; docket@cc.state.az.us;
ejohnson@cc.state.az.us; eric.s.heath@mail.sprint.com;
hagoodb@bellsouth.net; hpliskin@covad.com; jon_poston@prodigy.net;
joyce.hundley@usdoj.gov; jsburke@omlaw.com; jtopp@qwest.com;
kc1838@txmail.svc.com; kkirby@davidson.com;
lfarmer@cc.state.az.us; lgodfrey@att.com; lipschultzd@moss-
barnett.com; Lyndall.Nipps@allegiancetelecom.com;
mark.dinunzio@cox.com; marktrinchero@dwt.com; mhazel@mtntel.com;
mhazzard@kelleydrye.com; mjarnol@qwest.com;
mkallenberg@cc.state.az.us; mmg@gknet.com; mpatten@rhd-law.com;
Mscott@cc.state.az.us; MZulevic@covad.com; PBullis@ag.state.az.us;
rwolters@att.com; sduffy@sprintmail.com; swakefield@azruco.com;
tberg@tclaw.com; TCampbel@lrlaw.com; tcw@gknet.com;
thomas.f.dixon@wcom.com; tracigrundon@dwt.com
Cc: Clauson, Karen L.
Subject: AZ Docket T-00000A-97-0238 / Reply Comments

Attached are Eschelon's Reply Comments in this docket.

Some of the documents are TIF files. After opening them, just click the arrow on the tool bar to see the subsequent pages.

Service Letter

July 26, 2003

RE: In the Matter of US West Communications, Inc 's Compliance With
Section 271 of the Telecommunications Act of 1996
Docket Nos. T-00000A-97-0238

Dear Parties of Record.

Enclosed and served upon you is a copy of Eschelon's Reply Comments Regarding Staff Second Report, with Exhibits E-DD through E-NN in connection with the above-referenced matter.

Sincerely,

Kim K. Wagner
Senior Legal Secretary
Eschelon Telecom, Inc.
612.436.6225

Enclosure

Reply Comments

BEFORE THE ARIZONA CORPORATION COMMISSION

MARC SPITZER
Chairman
JIM IRVIN
Commissioner
WILLIAM A. MUNDELL
Commissioner
JEFF HATCH-MILLER
Commissioner
MIKE GLEASON
Commissioner

IN THE MATTER OF U S WEST
COMMUNICATIONS, INC.'S COMPLIANCE
WITH SECTION 271 OF THE
TELECOMMUNICATIONS ACT OF 1996

Docket No. T-00000A-97-0238

**ESCHELON'S REPLY COMMENTS
REGARDING STAFF SECOND REPORT**

Pursuant to the Procedural Order dated July 9, 2003 in this matter, Eschelon Telecom, Inc. ("Eschelon") submits these Reply Comments regarding the Final Report and Recommendation on Checklist Items 1 and 2 ("Second Report") arising from the July 30-31, 2002 Workshop ("Workshop") by the Arizona Corporation Commission ("Commission" or "ACC") Utilities Division Staff ("Staff"). Eschelon replies to the Comments of Qwest Corporation's ("Qwest") Regarding Staff's Report and Recommendation on July 30-31 Supplemental Workshop dated July 18, 2003 ("Qwest's Comments").

I. DISCUSSION

A. AIN AND VOICE MAIL WITH UNE-P

Based on the facts presented, Staff agreed with Eschelon's position that certain Advanced Intelligent Network ("AIN") features and voice mail (Voice Messaging Service, or "VMS") should be made available with UNE-P. *See* Second Report, p. 10, ¶¶ 40-42. Qwest has stated that it will comply with the Staff's recommendation to provide those AIN features and voice mail with UNE-P. *See* Qwest's Comments, pp 4-5 (AIN) and 12-13 (voice mail). As indicated in Eschelon's July 18, 2003 Comments in

this matter ("Eschelon's Comments," p 11), this is an important issue. Staff and the Commission have advanced competition in Arizona with this result.

Two sub-issues remain with respect to the availability of certain AIN features and voice mail with UNE-P: (1) CLEC facing documentation regarding feature availability, and (2) timing of implementation. With respect to the first issue, Eschelon has asked the Commission to require Qwest to post a complete "Features, Products & Services Unavailable with UNE-P Products" (with USOCs and language description) document, as modified to reflect the availability of AIN features and voice mail with UNE-P,¹ in a logical and readily accessible location on Qwest's web site. Eschelon addressed this issue in its earlier Comments (pp 11-14) and will not repeat that information here.

With respect to the second issue, the Commission should address the timing of implementation of the availability of AIN features and voice mail with UNE-P. The Staff found that Qwest currently has an obligation to provide AIN features to CLECs and that not to do so would be discriminatory. *See* Second Report, p 10, ¶¶ 40-42. Staff also found that, because Qwest has committed to provide voice mail with UNE-P in Minnesota, "Qwest should also be required to make this feature available to CLECs in Arizona which desire this feature with UNE-P." *Id.* p. 10, ¶ 41. Qwest has announced that it will provide voice mail with UNE-P in Minnesota effective today, July 25, 2003. *See* Ex. E-DD² (Qwest CMP notice PCAT_VMSwUNE-P_v1).

The Staff's recommendations address a current discriminatory situation. In Qwest's Comments, however, Qwest states that it will provide these features with UNE-P "after" the effective date of the FCC order approving Qwest's Section 271 application for the state of Arizona. *See* Qwest's Comments, p. 5 (AIN) & p. 12 (voice mail). Qwest does not commit to any deadline as to how long after the FCC's Order before it will do so. There is no reason for delay. Qwest is already providing AIN features on a platform basis to some carriers,³ and Qwest is already obligated to provide voice mail with UNE-P in Minnesota as

¹ As indicated in footnote 21 in Eschelon's Comments: "Although the documentation needs updating, availability of the features themselves need *not* be delayed while that process takes place. When Qwest chose to provide voice mail and AIN features with a platform product in the past, for example, Qwest did not require any CMP process before providing those features." *See* below.

² Eschelon's Exhibits E-A through E-CC were filed previously in this matter. Therefore, the Exhibit numbers here begin with E-DD.

³ *See* Second Report, p. 10 ¶¶ 40-41; *see also* Ex. E-EE (Qwest Data Request Response No. 001). In Ex. E-EE, Qwest states that AIN features have been available on a platform basis to McLeod since November of 2000 pursuant to Att. 3.2, Section IV G of the McLeod Amendment. Eschelon has the identical

of the date of this filing ⁴ Adding the same features in another state would take very little time, particularly if Qwest starts the process promptly

If the Commission accepts Qwest's modified proposal to provide these features with UNE-P but not until after FCC 271 approval, the Commission should require Qwest to take the steps necessary now to be ready to do so immediately upon the effective date of FCC 271 approval. At least with respect to voice mail, Qwest states that it will require an interconnection agreement ("ICA") amendment to add the feature and that it will use the Change Management Process ("CMP") to notify CLECs of the availability of voice mail with UNE-P. *See* Qwest's Comments, p. 13. Qwest states that it will not even begin to initiate these steps until after FCC 271 approval. *See id.* There is no reason that Qwest cannot take those steps now so that it is prepared to offer these features immediately upon FCC 271 approval.

For the reasons stated in the enclosed Minnesota filing, an ICA amendment is not required between Eschelon and Qwest to obtain voice mail with UNE-P. *See* Ex. E-FF (July 2, 2003 letters with attachments A-C).⁵ Qwest is using the alleged need for an amendment as a delaying tactic. *See id.* Nonetheless, Eschelon will take the path of least resistance and sign an amendment to obtain voice mail with UNE-P as promptly as possible. The content of Qwest's required ICA amendment is known, because Qwest imposed the same requirement in Minnesota. Eschelon has substituted Arizona for Minnesota in that amendment and executed it. *See* Ex. E-GG (voice mail with UNE-P ICA amendment for Arizona, executed by Eschelon). Eschelon asks Qwest to sign the amendment as well. No further delay is necessary for voice mail or AIN features.⁶ If the Commission accepts Qwest's modified proposal to provide certain AIN features and voice mail with UNE-P but not until after FCC 271 approval, the Commission should require Qwest to take the steps necessary now to be ready to do so immediately upon the effective date of FCC 271 approval.

B. SWITCH FEATURES

language in its November 2000 agreement (also Att. 3.2, Section IV.G), but Qwest made Eschelon amend that agreement in July of 2001 to obtain AIN features at retail rates (7-8 months after Qwest made them available to McLeod).

⁴ *See* Ex. E-DD (Qwest CMP notice PCAT_VMSwUNE-P_v1).

⁵ Language similar to that in the Minnesota ICA (*see* Att. A to Ex. E-FF) also appears in the Arizona ICA. *See, e.g.*, Att. 2, ¶15; Part A (fourth Whereas clause), Part A, ¶52.

⁶ While Qwest may need to notify CLECs through CMP of the availability of these features, it does not need to delay availability of the features while doing so. *See* Eschelon's Comments, footnote 21, and Ex.

Based on the record in this proceeding, the Staff has made reasonable recommendations regarding documentation and verification of information when Qwest claims that features are unavailable to CLECs because they are not activated or loaded in the switch. See Second Report, p. 11, ¶¶ 45-47. Qwest disagrees with these recommendations. See Qwest's Comments, pp. 6-8. Qwest's claim that existing processes already address the Staff's recommendations is incorrect. Qwest does not provide the straightforward and readily available vendor information described by Staff. There is no mention of it in Qwest's Special Request Process ("SRP"), and even if that process applies, the SRP imposes unknown and unpredictable individual case basis ("ICB") pricing just to obtain readily available vendor information. With respect to costs that Qwest asserts, there is no process to verify those costs. As recommended by Staff, Qwest should be required to "receive Commission approval of the charges subject to true-up."

C. TRAINING

As indicated in Eschelon's Comments (p. 15), Eschelon supports Staff's recommendation that Qwest take certain steps to ensure its employees are trained in proper processes. See Second Report, p. 12, ¶¶ 50-51. Eschelon asked the Commission to adopt this recommendation and, when doing so, clarify that the Staff's reference to CMP is meant to ensure CLEC participation in the survey process (and not just receipt of notice, if any) through CMP. Qwest disagreed with the Staff's recommendation and pointed to its existing survey as evidence that the recommended actions were unnecessary. See Qwest's Comments, p. 11. In conducting that survey, Qwest's survey company representatives have called CLEC representatives out of the blue to ask questions that Qwest designed with no CLEC input. When William Markert of Eschelon received such a call in the middle of a busy day, he asked Qwest to provide the questions in writing so that he could consider the questions and give meaningful answers. Qwest's survey company representative said no. A better process is needed.

This is true of Qwest's training generally. It needs improvement. In many instances, when problems occur, Qwest's response is that the problem was caused by a non-compliance issue and that re-training is needed. In the situations discussed during the Workshops, long delays resulted from miscommunications and contradictory information provided by Qwest personnel. See Second Report, p. 12, ¶ 50. Better up-front processes are needed to prevent these problems. In particular, a streamlined

E-FF, pp. 2-3. In any event, Qwest could initiate any needed CMP steps now to avoid delay, instead of

process is needed, as recommended by Staff, when these problems occur to avoid the types of delay that occurred in these situations. *See id.* ¶¶ 50-51. The Commission should adopt the Staff's recommendations.

D. DSL – DISCONNECT IN ERROR

The length of time it takes to restore service when Qwest disconnects a CLEC customer's DSL service in error is a very important issue. Staff made the following recommendation:

Staff disagrees with Qwest that there is no need to impose a shorter restore interval for this problem. If Qwest disconnects a DSL service in error, this is the equivalent to a trouble condition. The DSL repair out of service commitment interval, therefore, should be used to restore service. This commitment should be documented in Qwest repair process procedures (Qwest Product Catalog (PCAT)-Maintenance and Repair Overview and Standard Interval Guide).

See Second Report, p. 17, ¶ 72. The Commission should adopt this recommendation.

When Eschelon converts a customer from Qwest to Eschelon, Qwest at times disconnects the customer's DSL in error. For example, the Customer Service Record ("CSR") may be inaccurate and show the DSL on the wrong line. Although the error is Qwest's error, Qwest has said that its policy is to provide the CLEC the lengthy standard interval before Qwest will restore the DSL to the end-user customer.

Therefore, the CLEC's end-user customers can wait days for their DSL service to be restored, when it never should have been disrupted. For some business customers that rely heavily on DSL service, a disruption in DSL service can be as important or more important than a disruption in voice service. If Qwest disconnects the DSL service of one of its retail customers in error, Qwest retail is unlikely to tell the customer that Qwest's policy is to make the customer wait for days to restore the customer's DSL service. Although Qwest states that, despite its policy, it "works with" the CLECs to attempt to restore service earlier, there is no commitment to do so. The Commission should establish an interval for this purpose, as recommended by Staff.

E. MAINTENANCE AND REPAIR – DISCRIMINATION

Staff agreed with Eschelon that the issue it raised with respect to discrimination in providing a statement of time and materials to retail customers but not CLECs was important and needs to be resolved. *See* Second Report, p. 21, ¶ 86. Qwest states in its Comments that "this change request was successfully deployed on June 25, 2003." *See* Qwest's Comments, p. 16. That is incorrect. Deployment has not proven successful, and unresolved issues remain. Change Request number SCR070202-1X has not been closed in

waiting until after FCC 271 approval.

CMP⁷ It remains open and in CLEC Test status⁸ Qwest had to take back the issues to its system developers because Eschelon was unable to view any notices on the web site Qwest developed for this CR. There was discussion about putting it back in development phase, and that may happen if the issues are not resolved. As recommended by Staff, Qwest should advise the Commission when this process is agreed upon and actually implemented. See Second Report, p. 21, ¶ 86.

F. MAINTENANCE AND REPAIR – UNTIMELINESS OF BILLS

Eschelon discussed this issue at pages 18-20 of its Comments. In Qwest's Comments, Qwest states "In order to meet Qwest's 60-day back billing policy, maintenance and repair charges will not be processed if the date on which the work was completed is 45 days or more in arrears of the process date." See Qwest's Comments, p. 16. As shown by the example on page 19 of Eschelon's Comments, however, Qwest claims to Eschelon that it is proper under the same policy to send a bill 75 days after the repair work was completed. The Commission should adopt the Staff's recommendation, with the clarification that the bills will be sent to the CLECs within 45 days of the repair date.

G. LOSS AND COMPLETION REPORTS

Eschelon discussed this issue at pages 17-18 of its Comments. In Qwest's Comments, Qwest states that "the change request associated with this recommendation was successfully deployed on June 25, 2003." It is not the case that all of the issues relating to loss and completion reports were resolved on June 25, 2003. There is still an open action item in CMP. Qwest has said in root cause analysis that it is implementing a change by the end of the month but has provided insufficient information about the change or the reason for the change to analyze this promise.

If Qwest had agreed to re-open the CR relating to timely and accurate loss and completion reports when problems re-surfaced, the CR could be placed in "CLEC test" status. Qwest opened an action item instead, however, and action items do not carry such status designations. Particularly because there have been numerous problems with the loss and completion reports that have extended over a long period of time, the Commission should require Qwest to ensure that it has completed the necessary work by requiring Qwest to perform a test. Qwest should be required to complete a comparison of the losses and completions

⁷ This is a crossover CR. See also PC070202-2X.

⁸ The July CMP minutes are not yet posted on Qwest's wholesale web page. When posted, the minutes should reflect this status.

to the reports for resale, UNE-P, and unbundled loop, for a period of at least 30 days, to determine whether the reports are complete and accurate.⁹ The Commission should require Qwest to provide the results of the comparison to the Commission and notify the Commission when the issue is resolved

H. APPLICATION OF RATES: DS1 CAPABLE LOOPS

As indicated in Eschelon's Comments (pp. 4-11), since June, 2003, CLECs have experienced a jump in the number of jeopardy notices for DS1 capable loops on the grounds of "service inquiry" for lack of qualified facilities (*i.e.*, held orders). The problem has accelerated. At the time of filing Comments last week, Eschelon reported 13 in 25 days in Arizona. In the last week alone, Eschelon has received an additional 10 of these service inquiry jeopardy notices for DS1 capable loops in Arizona

Since providing the DS1 capable loop information in Eschelon's Comments, Eschelon has obtained additional information about this issue.¹⁰ An inadvertent Eschelon dispatch and an end user customer disclosure have led to discovery of information that shows that, despite Qwest's representations to the contrary, facilities are available at customer premises when Qwest says no facilities are available.¹¹ Both of these examples show that Qwest's claim that facilities are not available for DS1 capable loops so that construction is needed is not valid. Chronologies, with specific details (such as the identification numbers), for these examples are attached as Exhibits E-KK and E-LL.¹² An anti-competitive internal policy shift at Qwest after receiving 271 approval in virtually all of its states, and not a genuine need for construction of facilities, has led to the unjustified increase in number of held orders for DS1 capable loops

1. Example One: Qwest Claims No Facility Available, But Eschelon Inadvertently Discovers Facility is Installed and Working

⁹ Losses are also on the Completion report. Qwest should find the losses on the Completion report and then determine whether it can find the same losses on the Loss report for the same date. In doing this comparison, if Qwest finds errors, Qwest should perform root cause analysis to determine the cause of the errors and correct them. If Qwest is correct that the issue is resolved and can be closed, the comparison will show that the Loss report is accurate.

¹⁰ Eschelon also encloses emails and CMP notices received from Qwest on this issue as Exhibits E-HH (emails), E-II and E-JJ. Although Qwest has had this information all along, others have not. Other CLECs, such as Covad and Mountain Telecommunications in Arizona and Cbeyond in Colorado, are also experiencing the same problem.

¹¹ Eschelon could not provide these examples in the initial Comments because the information had not yet come to Eschelon's attention. If Qwest objects that it has not had an opportunity to reply, Eschelon has no objection to giving Qwest additional time to reply to the examples Eschelon provides here.

¹² Because of the inadvertent nature of these discoveries, Eschelon cannot predict when or how it will learn of such information. These two examples happened to have occurred in Utah and Washington. The same Qwest policies and processes apply in Arizona as in those states, as shown by the region-wide CRUNEC notices that Qwest is applying throughout its territory. See Exs. II-JJ.

In the first example (*see* Ex. E-KK), Eschelon submitted a Local Service Request ("LSR") on June 5, 2003 and requested a due date of June 16, 2003 to install a DS1 capable loop. On June 6, 2003, Qwest sent Eschelon a confirmation notice ("LSRC" or "FOC") that confirmed the due date and contained the circuit identification ("ID") number for the DS1 capable loop to be delivered in response to Eschelon's order. Between June 11, 2003 and July 22, 2003, Qwest sent several jeopardy notices to Eschelon regarding this order. One of these notices (the second to the last notice) stated that the "Order is released with 7/21/03 recommit date." Therefore, Eschelon followed its processes to be prepared when the DS1 capable loop was installed on July 21, 2003.

The next day, on July 22, 2003, Qwest sent another jeopardy notice (the most recent one), which stated "Local Facility Defective" and contained no estimated due date.

This time, however, the comments to the notice also stated. “*Service inquiry – no qualified facilities available*” A “service inquiry” jeopardy notice is a notice to CLECs that facilities are not available (i.e., a held order). Although the order went held, Eschelon had already scheduled a technician dispatch for July 23, 2003 based on the earlier notice. Due to the shortness of time between notices, Eschelon had not stopped its internal process. It had not canceled the dispatch by the Eschelon technician. Therefore, Eschelon dispatched a technician to the customer location on July 23, 2003.

The Eschelon technician found the DS1 capable loop circuit installed and tagged with the circuit ID number at the customer premise. Because the Eschelon technician did not know the order went held, the technician performed routine procedures (test calls, surfing, etc.) to ensure the circuit was working for voice and data.

The Eschelon technician followed procedures and called Eschelon to close out the order. Much to the technician’s surprise, the technician was told that, according to Qwest, no facilities were available.

In fact, the very same allegedly non-existing facility had been installed and was working. The Eschelon technician has confirmed that the circuit ID number on the working DS1 capable loop was the very same as that on the LSRC (FOC) provided to Eschelon. See Exs. LL-MM (photographs showing NIU and circuit ID at customer demarcation location – “demarc”).¹³ The working DS1 capable loop is the one that Eschelon ordered and Qwest said was not available.

If Eschelon’s technician had not been inadvertently dispatched, Eschelon would have had no way of knowing that a working facility was in place. Qwest did not notify Eschelon of this. Qwest’s position is that, when Qwest says there are no facilities available, Eschelon must follow Qwest’s twice revised no-build construction policy.

(“CRUNEC”) If Eschelon had done so in this case, Qwest would have required Eschelon to pay a Quote Preparation Fee (“QPF”) (which in Arizona could be approximately \$1,600) and pay for “construction” of facilities to serve this customer. In addition to the high costs, Eschelon would have had to spend months following Qwest’s CRUNEC process steps (see Ex. II), if the customer would have waited that long. Meantime, the facility would have been there all along, without Eschelon’s knowledge. If the customer got fed up with the delays, the facility was there for Qwest Retail’s use.

¹³ The circuit ID number begins with “HCFU.” This code is used for DS1 capable loops.

2. Example Two: Qwest Tells End User That Qwest Can Provide Service in Three Days When Eschelon's Order is Held for Lack of Facilities.

In the second example (*see* Ex E-NN), Eschelon submitted an LSR on July 8, 2003 and requested a due date of July 23, 2003 to install a DS1 capable loop. Qwest sent a confirmation notice that confirmed the due date and contained the circuit ID number for the DS1 capable loop to be delivered in response to Eschelon's order. On July 21, 2003, Qwest sent a jeopardy notice to Eschelon indicating that facilities were not available. The notice stated "Unavailability or lack of outside plant or buried service wire. Outside plant includes all facilities - wire cable, terminals, carrier, cross connecting devices, etc." and the jeopardy notice contained no estimated due date. The next day, Qwest sent another jeopardy notice.¹⁴ Neither notice provided an estimated due date for installing the DS1 capable loop.

¹⁴ This notice stated: "Unbundled only/RTT Issued." It is unclear what this means.

On July 23, 2003, the end user customer contacted Eschelon. He said that he spoke with an employee in Qwest's Engineering department. The Qwest employee told the end user that there was a T1¹⁵ due today and there should be absolutely no problem putting a T1 at this address. The customer said that Qwest also said that it could hook it up in *three days* if he wanted to *go with Qwest*.

The end user then told Eschelon he was going to check the demarc at his location. The end user found a circuit at the demarc. As with the other example, the circuit ID is the same circuit ID that Qwest provided for the DS1 capable loop on the LSRC (FOC) sent to Eschelon. The DS1 capable loop at the demarc is the one that Eschelon ordered and Qwest said was not available *to Eschelon*. Qwest told the customer, however, that the facility would be available through Qwest Retail within three days. When a CLEC has to tell a customer that there will be an indefinite delay in an order due to lack of facilities, but Qwest Retail can provide those facilities within a few days, the competitive disadvantage is clear. Qwest is using its alleged need for construction to place its competitors at a disadvantage and improperly winback customers.

These examples specifically, and the increase in number of jeopardy notices for service inquiry (no build) for DS1 capable loops generally, raise questions that should be answered before Qwest receives any positive recommendation as to 271 approval.

III. CONCLUSION

The Commission should adopt the recommendations of the Staff in the Second Report with respect to resolution of the impasse issues, with the clarifications discussed here and in Eschelon's Comments. With respect to compliance with 271, several of the items require follow up action. Qwest should complete those actions and verify compliance before obtaining a positive 271 recommendation. Eschelon also asks the Commission to first require Qwest to undo the changes it has made (and suspend those it is making pursuant to the twice revised CRUNEC policy) to its processes -- thereby decreasing the number of jeopardy notices for service inquiry/no build -- until Qwest brings those changes and associated rates to the Commission and obtains approval.

¹⁵ DS1 capable loops are often referred to as "T1s."

July 25, 2003

ESCHELON TELECOM, INC.

By:

Karen L. Clauson
Eschelon Telecom, Inc.
730 2nd Avenue South, Suite 1200
Minneapolis, MN 55402-2456
(612) 436-6026

Verification

07 25 2003 FRI 11 34 FAX 612 438 8818

ESCHELON Rem - Local Dept

001

BEFORE THE ARIZONA CORPORATION COMMISSION

MARC SPITZER
Chairman
JIM IRVIN
Commissioner
WILLIAM A. MUNDELL
Commissioner
JEFF HATCH-MILLER
Commissioner
MIKE GLEASON
Commissioner

IN THE MATTER OF U S WEST
COMMUNICATIONS, INC.'S COMPLIANCE
WITH SECTION 271 OF THE
TELECOMMUNICATIONS ACT OF 1996

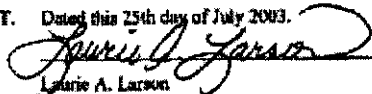
Docket No. T-00000A-97-0238

VERIFICATION OF LAURIE A. LARSON

I, Laurie A. Larson, being duly sworn, state that I am the Senior Director, Service Delivery, for Echelon Telecom, Inc. By this affidavit, I verify the factual assertions as true and correct statements to the best of my knowledge in regard to the Reply Comments filed today in this proceeding by Echelon Telecom, Inc.

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

FURTHER AFFIANT SAYETH NOT. Dated this 25th day of July 2003.


Laurie A. Larson

SUBSCRIBED AND SWORN TO before me this 25th day of July, 2003 by Laurie A. Larson, who certifies that the foregoing is true and correct to best of her knowledge and belief.

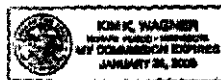
Witness my hand and official seal.



Notary Public

My commission expires:

1/31/05



Exhibits

E-DD (CMP notice for voice mail with UNE-P in MN)

EXHIBIT E-DD

Qwest Voice Messaging Services (VMS) with Unbundled Network Elements-Platform (UNE-P) – V1.0

History Log (Link blue text to [Replace Existing Download With Attached history log](#))

Product Description

Qwest Voice Messaging Service (VMS) is available in Minnesota with compatible Unbundled Network Elements – Platform (UNE-P) services. VMS with UNE-P provides voice mailbox service functionally equivalent to the Qwest Retail business and residential VMS offerings. For information on VMS functionality and operability refer to Qwest Voice Messaging (link blue text to <http://qwest.com/wholesale/clecs/features/vmsres.html>) for residential and Qwest Business Voice Messaging Service General Information (link blue text to <http://qwest.com/wholesale/clecs/features/bvmsgi.html>)

The following VMS services are available with UNE-P:

- Listen Only Mailbox – Business Only (link blue text to <http://www.qwest.com/wholesale/clecs/features/lombxbus.html>)
- Mailbox Only– Residence Only (link blue text to <http://qwest.com/wholesale/clecs/features/mbxres.html>)
- Transfer Mailbox – Residence and Business (link blue text to <http://www.qwest.com/wholesale/clecs/features/transmbxresbus.html>)
- Voice Mail Mailbox – Business Only (link blue text to <http://www.qwest.com/wholesale/clecs/features/vmmbxbus.html>)

The following VMS features and services are available with VMS:

- Additional Message Capacity - 50/100 Residence and Business (link blue text to http://www.qwest.com/wholesale/clecs/features/amc50_100resbus.html) adds a capacity of 50 or 100 additional messages to a voice mailbox
- Extension Mailbox – Residence and Business (link blue text to <http://www.qwest.com/wholesale/clecs/features/exmbxresbus.html>) allows three extensions to be added to the main mailbox. Callers can then leave general messages in the main mailbox or private messages in individual extension mailboxes
- Message Notification – Residence and Business (link blue text to <http://www.qwest.com/wholesale/clecs/features/messnotresbus.html>) programs the voice messaging to notify a pager or telephone number when a message is received
- Scheduled Greetings – Business Only (link blue text to <http://www.qwest.com/wholesale/clecs/features/schedgreetbus.html>) automatically changes the end-user's greeting according to an end-user determined schedule. For example, plays one greeting during open hours and another during closed hours.
- Routers allow the end-user to program a main greeting that directs callers to leave a message for different people or departments. The BVMS offers two types of routers:
 - Call Routing – Business Only (link blue text to <http://www.qwest.com/wholesale/clecs/features/callroutbus.html>)
 - Call Routing to Number – Business Only (link blue text to <http://www.qwest.com/wholesale/clecs/features/callroutnumberbus.html>)

- Call Router Traffic Study – Business Only (Link blue text to <http://www.qwest.com/wholesale/clecs/features/callroutrafficbus.html>)

You must determine and order features that are available, serve the end-user's needs, and are compatible with the end-user's equipment.

The following standard features are automatically provisioned with VMS mailboxes serving residential end-users: Autoplay, Call Sender, and Check Receipt. For feature descriptions refer to Qwest Voice Messaging. (link blue text to: <http://qwest.com/wholesale/clecs/features/vmsres.html>)

Complete instructions on setup and operation of Voice Messaging Service can be found in the Voice Messaging User Guide (Link blue text to <http://www.qwest.com/residential/pdf/VoiceMessaging.pdf>)

The optional vertical switch features Call Forwarding and Message Waiting Indication are used with VMS. For feature information, refer to the UNE-P Features Matrix (link blue text to <http://www.qwest.com/wholesale/clecs/features/unefeatures.html>).

Availability

Qwest VMS will be available with compatible UNE-P services after Qwest receives Section 271 approval for the state of Minnesota from the Federal Communications Commission.

VMS mailboxes are available in Minnesota with compatible UNE-P services provided to residential and/or business end users. VMS packages are not available.

VMS availability is dependent on the capabilities of each serving Qwest CO switch. You may determine availability for each switch by using the following resources:

- The Interconnect Mediated Access (IMA) Graphic User Interface (GUI) Pre-Order functions. For instructions on how to check optional feature availability, refer to the pre-order section of the IMA User's Guide. (link blue text to <http://www.qwest.com/wholesale/ima/gui/imauser.html>)
- The ICONN database, (link blue text to <http://www.qwest.com/iconn/>) which provides information on Qwest's local network, including optional features activated in each individual Qwest central office switch, by USOC. Some listed features may not be available with UNE-P
- The BVMS Lookup Table provides Business VMS availability, Call Forwarding, and Retrieval Numbers (Link blue text to <http://www.qwest.com/wholesale/guides/bvms>)

In addition to the feature information available by the aforementioned resources, USOCs and FIDs are described in the Universal Service Order Codes (USOCs) and Field Identifiers (FIDs) Overview (link blue text to <http://usocfidfind.qwest.com/>) Use of the USOC/FID Finder will assist you in identifying features by USOC and/or FID

Additional information can be found in the Pre-Ordering Overview. (Link blue text to <http://www.qwest.com/wholesale/clecs/preordering.html>)

Compatibility & Restrictions

Refer to the specific Voice Messaging PCAT links found in the Product Description (link back to Product Description) to determine capability and restrictions.

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Pricing

Rate Structure

When provided with UNE-P, Qwest VMS and Qwest VMS features and services are available at retail rates. Qwest VMS recurring and nonrecurring charges may be found in

state specific Tariffs/Catalogs/Price Lists. (link blue text to <http://tariffs.uswest.com/8000/>)
Qwest retail/resale VMS promotions are not available with UNE-P services.

The Feature Change Nonrecurring Charge, USOC NHCVQ, provided in your Interconnection Agreement is applicable per order when you add, remove, or change optional switch features on existing UNE-P services, e.g. adding, removing, changing call forwarding

Your Interconnection Agreement must include specific terms and conditions to purchase VMS service with UNE-P service. Contact your Qwest Sales Executive or Service Manager (link blue text to <http://www.qwest.com/wholesale/clecs/accountmanagers.html>) if you need to amend your Interconnection Agreement.

Rates

Rates can be found in Exhibit A or the specific rate sheet in your Interconnection Agreement.

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Ordering

Ordering Rules

Refer to the specific Qwest VMS PCATs in Product Description (Anchor blue text to the product description section of this PCAT) for ordering information.

Back to Top

Last Update: August 8, 2003

1A-ESS™ is a Trademark of Lucent Technologies, Inc.

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Centrex Prime®, Centron®, CustomChoice®, Dial Lock®, DID®, Market Expansion Line® and No Solicitation® are Registered Trademarks of Qwest Communications, Inc.

DMS™ is a Trademark of Nortel Networks.

Qwest DSL™ and Qwest Stand-By Line™ are Trademarks of Qwest Communications International, Inc.

Scan-Alert™ is a Service Mark of Ameritech.

E-EE (Qwest data response re. AIN to McLeod)

07/24/2002 THU 11:09 FAX 812 434 8318

ESCHELON Rm / Legal Dept

001

Minnesota
P421/C-03-427
ESCH 01-001

INTERVIEWER Eschelon Telecom, Inc

REQUEST NO: 001

In response to DOC 008, Qwest states that Eschelon "would have to give up AIN features and Directory listings currently provided pursuant to its agreement with Qwest since those features are not included in the McLeod agreement."

a. Does Qwest actually provide AIN features to McLeod in conjunction with UNE-M, even though it is not stated in the McLeod agreement?

b. Does Qwest provide Directory listings to McLeod in conjunction with UNE-M, even though it is not stated in the McLeod agreement?

RESPONSE:

a. Qwest does provide certain AIN features to McLeod in conjunction with UNE-M at Retail rates. Contrary to the assumption in this request, Qwest's agreement with McLeod provides for McLeod to purchase features at Retail rates. See Attachment 3.2, Section IV.G.

b. Qwest does provide directory listings to McLeod in conjunction with UNE-M. Contrary to the assumption in this request, Attachment 3.2, III.C. of their Oct. 2000 agreement addresses this issue.

Respondent: Anthony Washington

E-FF (MN letters re. voice mail with UNE-P, with attachments)

07 24 2003 THU 05 38 FAX 412 430 4414

ESCHELON Reg - Legal Dept

0001



July 2, 2003

By overnight express service
Director Interconnection Compliance
Qwest
1801 California, Room 2410
Denver CO 80202

Re Voice mail with UNE-P, Notice of Breach Pursuant to Part A, paragraph
28 of the Minnesota Interconnection Agreement

Dear Director of Interconnection Compliance:

Eschelon provides this Notice to Qwest of a material breach of the Minnesota Interconnection Agreement ("ICA") between Qwest and Eschelon. We have previously apprised Jason Topp, JoAnn Hanson, and Jean Novak of Qwest of this breach and now also provide formal notice pursuant to Part A, paragraph 28 of the ICA. Eschelon is entitled to order voice mail with UNE-P, but Qwest will not process UNE-P orders with voice mail under the ICA. Qwest's conduct is a breach of the ICA.

Attachment A to this notice contains excerpts from the ICA language. Attachment B is a proposed ICA amendment that contains language identical to that otherwise agreed to by Qwest in Minnesota, but which Qwest will not sign. Attachment C is a screen shot of a Qwest systems edit error message indicating that Qwest refused an order that Eschelon placed today in Minnesota on the grounds that Eschelon requested voice mail with UNE-P.

Existing ICA governs. Under the terms of the existing ICA between Qwest and Eschelon, Eschelon may both order combinations and resell voice mail, which entitles Eschelon to order voice mail with UNE-P, at rates approved by the Commission. See, e.g., Attachment A (containing excerpts from the interconnection agreement language). Qwest has long taken the position that this ICA language no longer applies (apparently based upon change of law provisions). Qwest unilaterally made this decision about the ICA interpretation and enforced its own interpretation by refusing such orders. Since then, Qwest agreed to change its position in the 271 proceedings. Qwest agreed to provide voice mail with UNE-P upon 271 approval. Qwest has obtained FCC 271 approval for Minnesota. Therefore, the claimed grounds for refusing to honor the ICA language no longer exist. Nonetheless, Qwest has informed Eschelon that it will not provide voice mail with UNE-P under the ICA.

Qwest said it requires an ICA amendment before processing any such orders. (In contrast, Qwest did not amend the ICA when it previously decided not to offer voice mail

700 Second Avenue South • Suite 1200 • Minneapolis, MN 55402 • Voice (612) 376-4400 • Facsimile (612) 376-4811

voice data internet equipment

E-GG (AZ voice mail with UNE-P amendment)

07 25 2003 FRI 08 44 FAX 012 436 0516

ESCHELON Rm - Legal Dept

2001

EXHIBIT E-GG

Qwest Voice Messaging Service with UNE-P Amendment
To the
Interconnection Agreement
between
Qwest Corporation
And
Eschelon Telecom of Arizona, Inc.

This is an Amendment ("Amendment") to the Interconnection Agreement between Qwest Corporation ("Qwest"), a Colorado corporation, and Eschelon Telecom of Arizona, Inc. ("CLEC").

RECITALS

WHEREAS, the Parties entered into an Interconnection Agreement, for service in the State of Arizona, that was approved by the Arizona Corporation Commission ("Commission") on April 28, 2000, as referenced in Docket No. 62489 ("Agreement"), and

WHEREAS, the Parties wish to amend the Agreement under the terms and conditions contained herein,

AGREEMENT

NOW THEREFORE, in consideration of the mutual terms, covenants and conditions contained in this Amendment and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

Amendment Terms

The Agreement is hereby amended by adding terms, conditions and rates for Qwest Voice Messaging Service with UNE-P, as set forth in Attachment 1 and Exhibit A, attached hereto and incorporated herein.

Rates in Exhibit A will reflect legally binding decisions of the Commission and shall be applied on a prospective basis from the effective date of the legally binding Commission decision, unless otherwise ordered by the Commission.

Effective Date

This Amendment shall be deemed effective upon approval by the Commission; however, the parties may agree to implement the provisions of this Amendment upon execution. To accommodate this need, CLEC must generate, if necessary, an updated Customer Questionnaire. In addition to the Questionnaire, all system updates will need to be completed by Qwest. CLEC will be notified when all system changes have been made. Actual order processing may begin once these requirements have been met.

Amendments: Waivers

The provisions of this Agreement, including the provisions of this sentence, may not be amended, modified or supplemented, and waivers or consents to departures from the

July 26, 2003med@eschelonVMS/AZ

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provisions of this Agreement may not be given without the written consent thereto by both Parties' authorized representative. No waiver by any party of any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, will be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

Entire Agreement

This Amendment (including the documents referred to herein) constitutes the full and entire Amendment and supersedes any prior understandings, agreements, or representations by or between the Parties, written or oral, to the extent they relate in any way to the subjects of this Amendment.

The Parties intending to be legally bound have executed this Amendment as of the dates set forth below in multiple counterparts, each of which is deemed an original, but all of which shall constitute one and the same instrument.

Eschealon Telecom of Arizona, Inc.

Qwest Corporation


Authorized Signature

Authorized Signature

Richard A. Smith

Name Printed/Typed

Name Printed/Typed

President and Chief Operating Officer

Title

Title

July 25, 2003

Date

Date

ATTACHMENT 1

Arizona Voice Messaging Service
With Unbundled Network Elements - Platform (UNE-P)

1.0 Description

- 1.1 Qwest Voice Messaging Service (VMS) with UNE-P

2.0 Terms and Conditions

- 2.1 Qwest VMS will be available and CLEC may order new or retain existing Qwest VMS with compatible UNE-P services.
- 2.2 CLEC will order residential Qwest VMS for CLEC residential End User Customers and Business Qwest VMS for CLEC business End User Customers
- 2.3 VMS is not an Unbundled Network Element

3.0 Rate Elements

- 3.1 See Qwest Arizona Exchange and Network Services Tariff, Catalog, and Price List for applicable VMS Recurring and Nonrecurring Rates.
- 3.2 VMS provided with UNE-P combinations are provided at Qwest retail rates

EXHIBIT A
Arizona

	Recurring	Non-Recurring
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Qwest Voice Messaging Service (VMS) with UNE-P	See Qwest Arizona Exchange and Network Services Tariff, Catalog, and Price List for applicable VMS Recurring and Nonrecurring Rates	
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